## **United States Department of Labor Employees' Compensation Appeals Board**

T.T., Appellant	
and	) Docket No. 20-0864 December 17, 2020
U.S. POSTAL SERVICE, POST OFFICE, Indianapolis, IN, Employer	) Issued: December 17, 2020 ) ) )
Appearances: Appellant, pro se	Case Submitted on the Record

## **ORDER DISMISSING APPEAL**

Office of Solicitor, for the Director

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On February 9, 2020 appellant filed a timely appeal from a January 16, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). By the January 16, 2020 decision, OWCP denied expansion of the acceptance of appellant's claim to include a small annular tear at L5-S1, finding that the medical evidence of record was insufficient to establish that the additional condition was caused or aggravated by her December 14, 2018 employment injury. The Clerk of the Appellate Boards docketed the appeal as No. 20-0687.

During the pendency of the appeal in Docket No. 20-0687, OWCP also issued a March 6, 2020 decision, in which it finalized the termination of appellant's wage-loss compensation and medical benefits, effective that date, as the accepted employment-related lumbar conditions had resolved. On March 10, 2020 appellant filed a timely appeal from the March 6, 2020 merit decision, to which the Clerk of the Appellate Boards assigned Docket No. 20-0864.

The Board's *Rules of Procedure*, at section 501.2(c)(3), provides:

"The Board and OWCP may not exercise simultaneous jurisdiction over the same issue in a case on appeal. Following the docketing of an appeal before the Board,

OWCP does not retain jurisdiction to render a further decision regarding the issue on appeal until after the Board relinquishes jurisdiction."

Similarly, section 10.626 of OWCP's regulations provides in pertinent part:

"While a case is on appeal to the [the Board], OWCP has no jurisdiction over the claim with respect to issues which directly relate to the issue or issues on appeal. The OWCP continues to administer the claim and retains jurisdiction over issues unrelated to the issue or issues on appeal and issues which arise after the appeal as a result of ongoing administration of the case...."

The Board, having duly considered the matter, notes that OWCP was properly developing the issue of whether the acceptance of appellant's claim should be expanded to include an additional lumbar condition,<sup>3</sup> as causally related to the accepted December 14, 2018 employment injury,<sup>4</sup> prior to the issuance of its March 6, 2020 termination decision. However, once appellant filed the Board appeal on February 9, 2020 in response to OWCP's January 16, 2020 denial of her expansion claim, OWCP had no jurisdiction to issue its March 6, 2020 termination decision as the expansion issue was related to whether appellant's employment-related conditions had resolved.<sup>5</sup> Consequently, the March 6, 2020 decision is null and void.<sup>6</sup>

Pursuant to 5 U.S.C. § 8149 and 20 C.F.R. §§ 501.2(c) and 501.3(a), the Board's jurisdiction is limited to the review of final adverse decisions of OWCP issued under the Federal Employees' Compensation Act. As the March 6, 2020 OWCP decision is null and void, the appeal assigned Docket No. 20-0864 does not contain a final adverse decision over which the Board may properly take jurisdiction. Therefore, the Board finds that the appeal docketed as No. 20-0864 is dismissed.

<sup>&</sup>lt;sup>1</sup> 20 C.F.R. §§ 501.2(c)(3). *See also M.S.*, Docket Nos. 19-1090 & 20-0408 (issued April 20, 2020); *J.W.*, Docket No. 19-1688 (issued March 18, 2020); *George Simpson*, Docket No. 93-0452 (issued February 18, 1994); *Arlonia B. Taylor*, 44 ECAB 591 (1993) (Member, Groom concurring in part and dissenting in part); *Douglas E. Billings*, 41 ECAB 880 (1990).

<sup>&</sup>lt;sup>2</sup> 20 C.F.R. § 10.626.

<sup>&</sup>lt;sup>3</sup> D.F., Docket No. 19-1257 (issued July 19, 2020) (The Board found that appellant had met his burden of proof to establish that his post-traumatic stress disorder was causally related to the accepted employment injury prior to the termination of his wage-loss compensation and medical benefits. The Board further found that OWCP did not meet its burden of proof to terminate wage-loss compensation and medical benefits as it had not resolved the issue of whether the acceptance of appellant's claim should be expanded to include his post-traumatic stress disorder prior to the issuance of the termination decision. The Board reversed OWCP's decision and remanded the case to determine the extent and degree of any employment-related disability.)

<sup>&</sup>lt;sup>4</sup> OWCP accepted appellant's claim for lumbar spine sprain, sprain of the sacroiliac joint, lumbar intervertebral disc disorders with myelopathy, and intervertebral disc disorders with radiculopathy of the lumbosacral region.

<sup>&</sup>lt;sup>5</sup> M.S. and Douglas E. Billings, supra note 1. See also D.F., Docket No. 19-1257 (issued July 14, 2020).

<sup>&</sup>lt;sup>6</sup> The Board had held that decisions that change the status of a decision on appeal are null and void. *Id. See also G.W.*, Docket No. 19-0260 (issued July 10, 2020); *Cathy B. Millin*, 51 ECAB 331 (2000).

## IT IS HEREBY ORDERED THAT Docket No. 20-0864 is dismissed.

Issued: December 17, 2020 Washington, DC

Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge Employees' Compensation Appeals Board